REMARKS

Claims 1, 8, 9, 18-20, 24, 28, 35, 38, 40, 41, 45, 47 and 50-60 were pending. Claims 8, 41, and 43 are allowed.

Claims 1, 9, 19, 40, and 60 have been amended in view of the Examiner's comments under 35 U.S.C. §112, first and second paragraphs provided in the Office Action mailed on June 18, 2003, to clarify limitations of the claimed invention. No new matter has been added.

Rejections Under 35 U.S.C. §112, First Paragraph

The Examiner rejected claims 9 and 40 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

The Examiner indicates a belief that the application lacks support for "a fragment exclusively between 12 and 1996 nucleotides in length" and a fragment "between 12 and 2441 nucleotides in length" (Office Action at page 3-4, paragraph 7). Applicants respectfully disagree with this assessment on the grounds that the fragment lengths at issue were included in the claims as originally filed. Therefore, Applicants respectfully submit that fragments between 12 and 1996 nucleotides in length and between 12 and 2441 nucleotides in length for the respective sequences are supported by the specification as filed.

Applicants have amended the claim to indicate that a portion of SEQ ID NO:39 is between 7 and 100 amino acids in length and a portion of SEQ ID NO:44 is between 7 and 100 amino acids in length. Support for the amendment can be found in the specification, for example at page 7, lines 14-16.

Applicants believe the claims as amended comply with the written description requirement and respectfully request that the Examiner withdraw the rejection of claim 9 under 35 U.S.C. §112 first paragraph.

The Examiner has rejected claim 40 under 35 U.S.C. 112, first paragraph and requests that Applicants indicate where support for the addition of the *in vitro* limitation can be found in the specification. Applicants respectfully assert that the specification, which teaches the use of antisense oligonucleotides in cells, by describing antisense oligonucleotides of the invention as "constructed and arranged so as to bind selectively with the target under physiological

conditions, i.e., to hybridize substantially more to the target sequence than to any other sequence in the target cell" (see page 21, line 31 to page 22, line 2), which teaches the use of antisense oligonucleotides in cells. The term "cells" as described on page 47, line 16-17, includes cells that are part of a biological sample, which as defined in the specification at page 47, line 11 as being "located *in vivo* or *in vitro*". Thus, Applicants respectfully submit that the specification provides adequate support for the inclusion of the term "*in vitro*" in claim 40 and respectfully request the withdrawal of the rejection of claim 40 under 35 U.S.C. §112, first paragraph.

The Examiner rejected claim 19 under 35 U.S.C. §112, first paragraph for lack of enablement. As suggested by the Examiner, Applicants have amended claim 19 to include the term "isolated". Applicants submit that the claim amendment obviates the basis for the rejection and respectfully request the Examiner withdraw the rejection of claim 19 under 35 U.S.C. §112, first paragraph.

Rejections Under 35 U.S.C. §112, Second Paragraph

The Examiner rejected claims 1, 40, and 60 under 35 U.S.C. §112, second paragraph as indefinite. Applicants have amended claims 1, 40, and 60 to include specific stringent hybridization conditions. Support for the amendment can be found at least on page 11, lines 20-25 of the specification as filed. Applicants submit that the inclusion of the hybridization conditions in the claims obviates the basis of the rejection and therefore respectfully request reconsideration and withdrawal of the rejection of claims 1, 40, and 60 under 35 U.S.C. §112, second paragraph.

The Examiner also rejected claim 40 under 35 U.S.C. §112, second paragraph as indefinite and asserts that it is unclear whether the "antisense nucleic acid or the tumor associated nucleic acid hybridizes to the nucleic acid having the sequence of SEQ ID NO:38 or SEQ ID NO:43" (Office Action at page 7-8, paragraph 10). Applicants have amended the claim to change the word "which" to the word "that" to clarify the language. Applicants believe that this grammatical correction puts the claim in condition for allowance and respectfully request that the Examiner withdraw the rejection of claim 40 under 35 U.S.C. §112, second paragraph.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after reviewing the amendments and this response, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check, please charge any deficiency to Deposit Account No: 23/2825.

Respectfully submitted,

By: _____

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